

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**ERIE COUNTY ENVIRONMENTAL
COALITION, et. al.
Plaintiffs**

v.

**MILLCREEK TOWNSHIP SEWER
AUTHORITY, et. al.,
Defendants**

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**CIVIL ACTION NO. 05-59 ERIE
ELECTRONICALLY FILED**

**MEMORANDUM IN OPPOSITION TO DEFENDANTS'
MOTION FOR RECONSIDERATION**

Plaintiffs oppose Millcreek Township Sewer Authority's and Millcreek Township's (collectively, "Defendants") Motion for Reconsideration of this Court's February 1, 2006 decision to quash the subpoenas and issue an order protecting Plaintiffs' standing witnesses. Plaintiffs incorporate by reference its January 31, 2006 Memorandum In Support of Plaintiffs' Motion to Quash Subpoenas and For Protective Order.

Additionally, Defendants, despite extensive efforts to argue for reconsideration, still fail to point out any need for the depositions, i.e. deficiencies in the standing declarations. It seems Defendants only intent in demanding the depositions is to engage in a fishing expedition for factual information outside the scope of standing. Defendants do at one juncture suggest a credibility issue with two of the witnesses. Ms. Weber's and Mr. Davis' declarations do include opinions regarding how they have been impacted by Millcreek's discharges into Walnut Creek, however, these opinions in no way suggest that these declarants are liars or have some larger ulterior motive. Additionally, Plaintiffs will not be using such statements for their factual validity regarding the impact of Millcreek's discharges because Plaintiffs are not required to make such a

demonstration. Defendants' argument only demonstrates that Defendants are attempting to partake in a factual inquiry outside the scope of standing and beyond the factual issues in this case.

For the foregoing reasons, the Court should deny Defendants' request to reconsider its February 1, 2006 order quashing the subpoenas and protecting standing witnesses from deposition.

Respectfully submitted,

s/ Jennifer A. Murphy
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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing document by electronic means utilizing the Court's CM/ECF system that will serve notice of electronic filing to Mark J. Shaw, Esq., McDonald, Illig, Jones & Britton, LLP, Attorney for Defendants on this 14th day of February, 2006.

/s/ Jennifer A. Murphy
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